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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TROY CRAYTHORN, individually,
and on behalf of all others
similarly situated,

Plaintiff,

v.

WESTOWER COMMUNICATIONS,
INC., a Delaware Corporation,

Defendant.

No. 2:12-cv-01328-JAM-EFB

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF CLASS
NOTICE, AND SETTING OF FINAL
APPROVAL HEARING**

The Court, having fully reviewed the Motion for Order Granting Preliminary Approval of Class Action Settlement, the supporting Points and Authorities, Declarations of Isam C. Khoury and Cris Vaughan, the Settlement Agreement, Notice of Class Action Settlement, and the statement of non-opposition by Defendant WestTower Communications, Inc. ("Defendant"), and in recognition of the Court's duty to make a preliminary determination as to the reasonableness of any proposed class action settlement and, if preliminarily determined to be reasonable, to ensure proper notice is provided to Class Members in accordance with due process requirements, and to conduct a

1 Final Approval hearing as to the good faith, fairness, adequacy
2 and reasonableness of any proposed settlement, HEREBY MAKES THE
3 FOLLOWING DETERMINATIONS AND ORDERS:

4 1. The Court finds, on a preliminary basis, that the
5 Settlement Agreement incorporated in full by this reference and
6 made a part of this Order Granting Preliminary Approval, appears
7 to be within the range of reasonableness of a settlement which
8 could ultimately be given final approval by this Court. The Court
9 notes that Defendant has agreed to pay the Gross Settlement
10 Amount of \$1,140,000.00 in full satisfaction of the claims as
11 more specifically described in the Settlement Agreement.

12 2. The Court also finds that, on a preliminary basis, the
13 Settlement is fair and reasonable to Class Members when balanced
14 against the probable outcome of further litigation relating to
15 class action certification, liability and damages issues, and
16 potential appeals of rulings. The Court further finds that
17 significant investigation, research, litigation, formal and
18 informal discovery have been conducted such that Counsel for the
19 Parties are able to reasonably evaluate their respective
20 positions. The Court further finds that settlement at this time
21 will avoid substantial costs, delay and risks that would be
22 presented by the further prosecution of the litigation, and that
23 the proposed Settlement has been reached as the result of
24 intensive, informed and non-collusive and arm's-length
25 negotiations between the Parties. ACCORDINGLY, GOOD CAUSE
26 APPEARING, THE MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
27 SETTLEMENT IS HEREBY GRANTED.

28 3. As a part of said preliminary approval, the Court hereby

1 accepts and incorporates the Parties' Settlement Agreement and
2 hereby conditionally certifies the following class of persons,
3 for settlement purposes only, pursuant to the terms and
4 conditions contained in said Settlement Agreement:

5 A. "Class" or "Classes" mean all members of the
6 following classes:

7 1. The "Roseville Class": all non-exempt field
8 civil technicians, tower technicians,
9 electricians, and foremen employed by WestTower
10 and who worked out of a Northern California
11 location at any time during the period of
12 March 9, 2008 through July 30, 2014. [There
13 are an estimated 213 members of the Roseville
14 Class.]

15 a. "Roseville Subclass": all Roseville Class
16 members employed at any time on or after
17 March 9, 2009 and who were no longer
18 employed as of July 30, 2014. [There are
19 an estimated 114 members of the Roseville
20 Subclass.]

21 2. The "Los Angeles Class": all non-exempt Foremen
22 employed by WestTower and who worked out of a
23 Southern California location at any time during
24 the period of March 9, 2008 through July 30,
25 2014. [There are an estimated 67 members of the
26 Los Angeles Class.]

27 a. "Los Angeles Subclass": all Los Angeles
28 Class members employed at any time on or

1 after March 9, 2009 and who were no
2 longer employed as of July 30, 2014.

3 [There are an estimated 37 members of the
4 Los Angeles Subclass.]

5 4. The Court approves and appoints Plaintiff Troy W.
6 Craythorn as the Class Representative.

7 5. The Court approves and appoints Cohelan Khoury & Singer
8 and Vaughan & Associates as Class Counsel.

9 6. The Court approves and appoints CPT Group, Inc., as the
10 Claims Administrator to administrate the Settlement pursuant to
11 the terms of the Settlement Agreement.

12 7. The Court finds that the Notice of Class Action
13 Settlement ("Notice"), the Employment Information Sheet, and
14 Change of Address Form, advise of the pendency of the Class
15 Action, of the proposed Settlement, of the preliminary Court
16 approval of the proposed Settlement, of the automatic payment of
17 a proportionate share of the settlement monies if the Class
18 Member does not request to be excluded; the estimated amount each
19 may expect to receive pursuant to the proposed Settlement;
20 objection timing and procedures, opt-out timing and procedures,
21 and of the Final Approval hearing date. The Court further finds
22 that these documents fairly and adequately advise Class Members
23 of the terms of the proposed Settlement and the benefits
24 available to Class Members thereunder, and of the Final Approval
25 hearing and the right to file documentation in support of or in
26 opposition to the Settlement and to appear in connection with
27 said hearing. The Court further finds that the Notice clearly
28 comport with all constitutional requirements including those of

1 due process. ACCORDINGLY, GOOD CAUSE APPEARING, THE COURT HEREBY
2 APPROVES THE PROPOSED NOTICE OF CLASS ACTION SETTLEMENT,
3 EMPLOYMENT INFORMATION SHEET, AND CHANGE OF ADDRESS FORM,
4 ATTACHED AS EXHIBITS TO THE SETTLEMENT AGREEMENT;

5 8. The Court finds that the mailing to the present and last
6 known address of the members of the above-named Classes
7 constitutes an effective method of notifying Class Members of
8 their rights with respect to the Class Action and Settlement.
9 ACCORDINGLY, IT IS HEREBY ORDERED that:

10 (a) Within ten days of this preliminary approval, Defendant
11 shall forward to the appointed Claims Administrator, CPT Group,
12 Inc., ("CPT") the Class Data List as provided for by the terms of
13 the proposed Settlement.

14 (b) Within thirty days of this preliminary approval CPT
15 shall mail to each Class Member, by first class, postage pre-
16 paid, the Notice of Class Action Settlement, Employment
17 Information Sheet, Change of Address Form, and a pre-printed,
18 postage paid return envelope (collectively the "Notice Packet");

19 (c) All mailings shall be made to the present and/or last
20 known mailing address of the Class Members based on Defendant's
21 records, as well as addresses that may be updated and located by
22 the Claims Administrator who will conduct standard address
23 searches in cases of returned mail as set forth in the Settlement
24 Agreement. The Court finds and so orders that the mailing of the
25 Notice Packet to Class Members as set forth in this paragraph is
26 the best means practicable by which to reach Class Members and is
27 reasonable and adequate pursuant to all constitutional and
28 statutory requirements including all due process requirements;

1 and

2 9. IT IS FURTHER ORDERED that:

3 (a) Request to be excluded ("opt-out requests") must be
4 mailed to the Claims Administrator, postmarked within sixty days
5 of the initial mailing of the Notice Packet to the Class.

6 (b) Objections must be in writing and must explain in clear
7 and concise terms the basis of each objection setting forth the
8 factual and legal arguments in support. All papers in support of
9 the objections must be sent to CPT as described in the Notice
10 within sixty days of the initial mailing of the Notice Packet to
11 the Class.

12 (c) Notice of Intention to Appear at the Final Approval
13 hearing in order to be heard in conjunction with a properly
14 served Objection, must be sent to the CPT as described in the
15 Notice within sixty days from the initial mailing of the Notice
16 Packet to the Class.

17 10. IT IS FURTHER ORDERED that the Final Approval hearing
18 shall be held before the undersigned at 9:30 a.m. on April 8,
19 2015 in Courtroom 6, located at the Robert I. Matsui United
20 States Courthouse, 501 I Street, 14th Floor, Sacramento,
21 California 95814, to consider the fairness, adequacy and
22 reasonableness of the proposed Settlement preliminarily approved
23 by this Order of Preliminary Approval, and to consider the
24 application of Class Counsel Cohelan, Khoury & Singer and Vaughan
25 & Associates for an award of reasonable attorneys' fees and
26 litigation expenses, Class Representative service payment to
27 Plaintiff, and for the Claims Administration expenses incurred.

28 11. IT IS FURTHER ORDERED that all briefs in support of the

1 proposed Settlement and the Final Approval hearing shall be
2 served and filed with the Court on or before March 20, 2015.

3 12. IT IS FURTHER ORDERED that all briefs in support of
4 Class Counsels' requests for awards of attorneys' fees and
5 litigation costs, Class Representative service payment and Claims
6 Administration expenses shall be filed with the Court on or
7 before March 20, 2015.

8 13. IT IS FURTHER ORDERED that if, for any reason, the Court
9 does not execute and file an Order Granting Final Approval and
10 Judgment, or if the Effective Final Settlement Date, as defined
11 by the Settlement Agreement, does not occur for any reason
12 whatsoever, the Settlement Agreement and the proposed Settlement
13 subject of this Order and all evidence and proceedings had in
14 connection therewith, shall be null and void and without
15 prejudice to the status quo ante rights of the Parties to the
16 litigation as more specifically set forth in the Settlement
17 Agreement.

18 14. IT IS FURTHER ORDERED that, pending further order of
19 this Court, all proceedings in this matter except those
20 contemplated herein and in the Settlement Agreement are stayed.

21 15. The Court expressly reserves the right to adjourn or
22 continue the Final Approval hearing without further notice to
23 Class Members.

24 IT IS SO ORDERED.

25 Dated: December 4, 2014

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27 
28 JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE